

**BOARD OF ENVIRONMENTAL PROTECTION
Meeting Minutes**

August 19, 2004

A meeting of the Board of Environmental Protection was held on Thursday, August 19, 2004, at the Holiday Inn / Ground Round in Augusta, Maine. Richard Wardwell, Chair, called the meeting to order at 10:30 a.m. with the following individuals present:

Board: Ernest Hilton, Nancy Anderson, Irving Faunce, Virginia Plummer, Richard Wardwell, Jean T. Wilkinson and Matt Scott

Absent: Donald Guimond and Nancy Ziegler

<u>Staff:</u>	Bureau of Air Quality	Andrea Lani
	Bureau of Land and Water Quality	Dana Murch
	Bureau of Land and Water Quality	Judy Gates
	Bureau of Land and Water Quality	Don Witherill
	Bureau of Land and Water Quality	Jeff Dennis

Others: David Littell, Deputy Commissioner
Peggy Bensinger, Assistant Attorney General
Terry Hanson, Administrative Assistant
Cynthia Bertocci, Executive Analyst

(Meeting adjourned at approximately 12:30 p.m.)

I. DEPARTMENTAL

A. COMMISSIONER'S COMMENTS: Deputy Commissioner David Littell reported the following:

Bonds: The Governor's Bond proposal will not move forward for Legislative action this year. Governor Baldacci will not convene Legislature for consideration of the bond package due to disagreement among Legislative leadership regarding bond issues. Important environmental projects will not go forward and a one-year gap in federal match monies associated with the Clean Water Act will occur. In an effort to limit the gap, the Department is reviewing an option for a two-year funding approach to secure federal monies next year.

Budget: The Department is working on its September 1st submittal for level-funding. The shortfall from increased costs due to healthcare, retirement and personnel reclassification may result in staffing cuts.

DEP High Priority Initiatives: The Department's senior management team produced a brochure that identifies the Department's high priority initiatives. The Deputy Commissioner provided Board members with copies of the brochure and offered to review the 10 priorities in more detail at the end of the Board's agenda.

Great Lakes Hydro: The Deputy Commissioner announced that he will be stepping down from the head table when the Board considers the matter of a Use Attainability Analysis associated with the Great Lakes Hydro project due to his former firm's participation in the matter. Andy Fisk, Director Bureau of Land and Water will represent the Commissioner's Office on this matter.

Questions: Board member Irving Faunce asked if the lack of environmental bonds would create a risk that Maine would lose federal matching funds.

Deputy Commissioner Littell confirmed that federal match monies will be lost. An 11-million dollar bond package would have resulted in 25-million dollars in direct federal monies for wastewater construction and drinking water projects. Those federal monies will be pooled for distribution to other states. If that funding remains available next year it is possible that the Department could pursue match funding next year under a two-year approach; however, the Administration or Legislature may not approve the doubling up of funding requests for next year.

B. CHAIRMAN'S COMMENTS: NONE

C. EXECUTIVE ANALYST COMMENTS:

Florida Power and Light has appealed the Board's decision denying water quality certification for the Flagstaff Storage Project to Superior Court.

The public hearing on the application by Maine Department of Inland Fisheries and Wildlife for an all tidal public boat ramp at Mere Point is scheduled for November 17 and 18, 2004. There have been significant changes to the project since the Board's site visit last year. If members would like to conduct a second site visit to review changes to the proposal please communicate that to us.

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| D. BOARD CALENDAR: | Reviewed |
| E. DEPARTMENTAL ORDERS: | Reviewed |
| F. EXECUTIVE SESSION: | None |

II CONSENT AGENDA ITEMS

The Board voted (7-0-0-2) to approve agenda items 1, and 2 as follows: [Note: Revised June 17, 2004 minutes were provided and approved as presented.]

1. BEP MINUTES – June 3, 2004
2. BEP MINUTES – June 17, 2004

Board members Ernest Hilton, Nancy Anderson, Irving Faunce, Virginia Plummer, Richard Wardwell, Jean T. Wilkinson, and Matt Scott voted to support the motion. Board members Donald Guimond and Nancy Ziegler were absent

The Board voted (7-0-0-2) to approve agenda items 3, 4, 5, 6, 7, 8, and 9 as presented:

3. VITO COUCH and LINDA COUCH AND DAVID HALLOWELL, Belgrade – Administrative Consent Agreement and Enforcement Order (BLWQ – Land)
4. VIRGINIA FAUCHER, Sidney – Administrative Consent Agreement and Enforcement Order (BLWQ - Land)
5. JAMES LAFEMINA, Madison – Administrative Consent Agreement and Enforcement Order (BLWQ - Land)
6. BRYANT HOPKINS, Oakland – Administrative Consent Agreement and Enforcement Order (BLWQ - Land)
7. DOUGLAS BROUGHTON and CAROL BENTO, Shapleigh – Administrative Consent Agreement (BLWQ – Land)
8. BRYAN M. MAGLIOCCA, SR. and CROSS EXCAVATION, Woodstock – Administrative Consent Agreement and Enforcement Order (BLWQ – Land)
9. W/S ALFRED ROAD PROPERTIES, L.L.C., Biddeford – Administrative Consent Agreement (BLWQ – Land)

Board members Ernest Hilton, Nancy Anderson, Irving Faunce, Virginia Plummer, Richard Wardwell, Jean T. Wilkinson, and Matt Scott voted to support the motion. Board members Donald Guimond and Nancy Ziegler were absent

III. Regular Agenda

1. CHAPTER 152, CONTROL OF EMISSIONS OF VOLATILE ORGANIC COMPOUNDS FROM CONSUMER PRODUCTS / NEW (adoption)
Staff: Andrea Lani, Bureau of Air Quality

The Board voted (7-0-0-2) to adopt new Chapter 152, Control of Emissions of Volatile Organic Compounds from Consumer Products including an amendment to the supplemental basis statement as follows:

*Section 9(2). Test Methods ...upon approval of the Department **and EPA.***

The vote was taken pursuant to 38 M.R.S.A., Section 341-D and 385-A.

Board members Ernest Hilton, Nancy Anderson, Irving Faunce, Virginia Plummer, Richard Wardwell, Jean T. Wilkinson, and Matt Scott voted to support the motion. Board members Donald Guimond and Nancy Ziegler were absent.

2. GREAT LAKES HYDRO AMERICA, L.L.C. (GLHA) HYDRO STORAGE PROJECT – Water Quality Certification Ragged & Seboomook Lakes / Use Attainability Analysis (request for public hearing)

Staff: Dana P. Murch, Bureau of Land and Water Quality

The Board voted (7-0-0-2) on a motion to conduct a Use Attainability Analysis (UAA) for Ragged and Seboomook Lakes, publish notice for individuals to intervene and establish October 7, 2004 as the date for a public hearing in Bangor, Maine.

The vote was taken pursuant to 38 M.R.S.A., Section 464(2-A).

Board members Ernest Hilton, Nancy Anderson, Irving Faunce, Virginia Plummer, Richard Wardwell, Jean T. Wilkinson, and Matt Scott voted to support the motion. Board members Donald Guimond and Nancy Ziegler were absent

3. DAVID LASH / PRIVATE RECREATIONAL DOCK, MEDOMAK RIVER (appeal)

Staff: Mike Mullen, Bureau of Land and Water Quality

Chairman Wardwell announced that the Board has removed the appeal regarding Department approval for a private recreational dock on Medomak River from consideration at this time, noting that one of the appellants was unexpectedly hospitalized and could not participate. This item will be rescheduled for a future regular meeting. No vote was taken.

BOARD RECONVENED AT 1:30 TO CONDUCT PUBLIC HEARING(S):

Chapter 500, Stormwater Management / Amendments

Chapter 502, Direct Watersheds of Lakes most at risk from New Development and Urban Impaired Streams / Amendments

Next Regular Board Meeting – Thursday, September 2, 2004 – Holiday Inn / Ground Round, Augusta

BOARD OF ENVIRONMENTAL PROTECTION
Holiday Inn / Ground Round, Augusta Maine at 09:00 a.m.
August 19, 2004

I. DEPARTMENTAL

- A. Commissioner's Comments
- B. Chairman's Comments
- C. Executive Analyst Comments
- 001 D. Board Calendar
- E. Departmental Orders
- F. Executive Session

II. CONSENT AGENDA ITEMS

- 005 1. BEP MINUTES – June 3, 2004 (approval)
- 009 2. BEP MINUTES – June 17, 2004 (approval)
- 015 3. VITO COUCH and LINDA COUCH AND DAVID HALLOWELL, Belgrade –
Administrative Consent Agreement and Enforcement Order (BLWQ – Land)
- 019 4. VIRGINIA FAUCHER, Sidney – Administrative Consent Agreement and Enforcement
Order (BLWQ - Land)
- 023 5. JAMES LAFEMINA, Madison – Administrative Consent Agreement and Enforcement
Order (BLWQ - Land)
- 027 6. BRYANT HOPKINS, Oakland – Administrative Consent Agreement and Enforcement
Order (BLWQ - Land)
- 031 7. DOUGLAS BROUGHTON and CAROL BENTO, Shapleigh – Administrative Consent
Agreement (BLWQ – Land)
- 035 8. BRYAN M. MAGLIOCCA, SR. and CROSS EXCAVATION, Woodstock – Administrative
Consent Agreement and Enforcement Order (BLWQ – Land)
- 039 9. W/S ALFRED ROAD PROPERTIES, L.L.C., Biddeford – Administrative Consent
Agreement (BLWQ – Land)

III REGULAR AGENDA ITEMS

- 043 1. CHAPTER 152, CONTROL OF EMISSIONS OF VOLATILE ORGANIC COMPOUNDS
FROM CONSUMER PRODUCTS / NEW (adoption)
Staff: Andrea Lani, Bureau of Air Quality

*At its meeting the Board will accept additional public comment on a rule proposed for adoption. Additional public comment will be accepted only if it is directly related to comments received during the formal rulemaking comment period or is in response to proposed changes. Comments must be presented orally except by leave of the Chairman

- 083 2. GREAT LAKES HYDRO AMERICA, L.L.C. (GLHA) HYDRO STORAGE PROJECT –
Water Quality Certification Ragged & Seboomook Lakes / Use Attainability Analysis
(request for public hearing)
Staff: Dana P. Murch, Bureau of Land and Water Quality
- 153 3. DAVID LASH / PRIVATE RECREATIONAL DOCK, MEDOMAK RIVER (appeal)
Staff: Mike Mullen, Bureau of Land and Water Quality

BOARD TO RECONVENE AT 1:30 TO CONDUCT PUBLIC HEARING(S):

Chapter 500, Stormwater Management / Amendments

Chapter 502, Direct Watersheds of Lakes most at risk from New Development and Urban Impaired Streams / Amendments

Next Regular Board Meeting – Thursday, September 2, 2004 – Holiday Inn / Ground Round, Augusta